

CHAPTER 10

AMENDMENTS, SPOT ZONING, VALIDITY, ENACTMENT

SECTION 10-1. AMENDMENTS

1. General:

These regulations may be amended by changing the boundaries of districts or by changing any other provision thereof whenever the public necessity and convenience and general welfare require such amendment.
2. Application for Amendment:
 - A. Who may initiate Action: Amendment may be initiated by the City Council or the Planning Commission or by an application of one or more owners of property affected by the proposed amendment.
 - B. Application Fee: Each application by a property owner shall be accompanied by a fee of one hundred dollars (\$100.00), no part of which shall be returnable to the applicant.
 - C. Accompanying Data: An application for amendment shall be accompanied by drawings and any data necessary to demonstrate that the proposed amendment is in general conformance with the Comprehensive Plan and that public necessity, convenience, and general welfare require the adoption of the proposed amendment. An accurate legal description and map of the land and existing buildings shall be submitted with the application. A certified abstractors list of all owners of property and or a list of county recorded property owners located within three hundred (300) feet of subject property shall be submitted with the application.

A certified abstractors list of all owners of real property or a list of county recorded real property owners located within one-quarter (1/4) mile of the area to be affected shall be submitted with the application if the zoning change requested permits the use of multiple housing units, treatment facilities, transitional living facilities, halfway houses and any housing facility used for medical or nonmedical detoxification. (*Added per Ordinance No. 588, 12/15/09*)
 - D. Timing: The application shall be delivered to the Planning Commission at least twenty-one (21) days prior to the date of the meeting at which action is to be sought.
3. Public Hearings before the Planning Commission: Upon filing of the application, the Planning Commission shall hold a public hearing on said application as provided for herein.
 - A. Notice of Public Hearing:

The Planning Commission shall publish a notice of the Public Hearing in an official paper or newspaper of general circulation in the City of Grove at least fifteen (15) days prior to the date of said public hearing giving time and place of the public hearing and the proposed zoning change. Notice shall be mailed to all owners of property located within three hundred (300) feet of the subject property.

When a requested zoning change would permit the use of multiple housing units, treatment facilities, transitional living facilities, halfway houses and/or any

housing facility used for medical or nonmedical detoxification, the Planning Commission shall publish a notice of the Public Hearing in an official newspaper of general circulation in the City of Grove at least fifteen (15) days prior to the date of said public hearing giving time and place of the public hearing and the proposed zoning change. The notice shall include a map of the area to be affected which indicated street names or numbers, streams, or other significant landmarks in the area.

Any entity or person requesting a zoning change which permits the use of multiple housing units, treatment facilities, transitional living facilities, halfway houses and/or any housing facility used for medical or nonmedical detoxification shall mail a notice of the Public Hearing at least thirty (30) days prior to the date of said public hearing, giving notice of the time and place of the public hearing and the proposed zoning changes, to all owners of real property located within one-quarter (1/4) mile of the affected property. The notice shall include a map of the area to be affected which indicates street names or numbers, streams and other significant landmarks in the area. The entity or person requesting the zoning change which permits the use of multiple housing units, treatment facilities, transitional living facilities, halfway houses and/or any housing facility used for medical or nonmedical detoxification shall be responsible for all costs incurred in mailing this notice. *(Added per Ordinance No. 589 12/15/09)*

4. Action by Planning Commission at Conclusion of Hearing:

If at the conclusion of the public hearing the Planning Commission decides to recommend amendment of these regulations, said recommendation shall be by resolution of the Planning Commission carried by the affirmative votes of not less than a majority of its total membership. A copy of any recommended amendments shall be submitted to the City Council and shall be accompanied by a report of findings, summary of hearings, and recommendation of the Planning Commission.

5. Action by the City Council:

A. Action on Planning Commission Recommendation:

After receipt of a copy of any recommendation from the planning commission and before any action may be taken, the City Council shall set the matter for public hearing and shall give notice of the time and place of the hearing by one publication in an official newspaper or a newspaper of general circulation in Grove at least fifteen (15) days prior to such hearing.

B. Change by the City Council in Recommendation of Planning Commission:

If the City Council proposes to adopt an amendment to the regulations in a form altered from said amendment as recommended by the Planning Commission, or an amendment where denial has been recommended by the Planning Commission, the City Council shall refer said matter back to the Planning Commission for report and recommendation before adoption. If the Planning Commission has not held a public hearing on said proposed amendment, it shall do so under the procedure set forth in Paragraph 3. The failure of the Planning Commission to report within thirty (30) days after reference shall be deemed to be approval of the proposed amendment.

C. Vote under Protest:

In case of a protest against a change, signed by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change, or by owners of fifty (50) percent or more of the area of the lots within three hundred (300) feet of the site or the territory included in such proposed change or

separated therefrom by an alley or street, such amendment shall not become effective except by a favorable vote of four fifths (4/5) of all members of the City Council.

6. Effect of denial of Application:

In case an application for amendment to the regulations is denied, said application shall not be eligible for reconsideration for one year subsequent to such denial. A new application affecting or including all or part of the same property must be substantially different from the application denied, in the opinion of the Council, to be eligible for consideration within less than one year of the denial of the original application.

SECTION 10-2 . SPOT ZONING

1. The Planning Commission, prior to taking action in accordance with Section 10-1 (4) to recommend a proposed amendment to these regulations, and the City Council, prior to taking action in accordance with Section 10-1 (5) to adopt a proposed amendment to the regulations, shall give consideration as to whether the proposed amendment constitutes "Spot Zoning." In general, "Spot Zoning" means the zoning or re-zoning of a tract of land to a zoning classification significantly different from the areas in the vicinity of the spot-zoned tract. Spot Zoning is usually identifiable where one or more of the following factors applies to the re-zoned tract:

- A. Its size or area is relatively small as compared to the surrounding tracts;
- B. The new zoning designation does not conform to the City's Future Land Use Map;
- C. The new zoning designation deviates significantly from the prior designation;
- D. The allowed uses in the new zoning designation deviate significantly from those allowed in surrounding areas;
- E. Only one landowner, or only a small group of related landowners, will benefit from the revised designation; or
- F. There will be very little or no appreciable benefit to the general public as a result of the zoning revision.

2. Spot zoning shall not be considered illegal *per se* but it is hereby declared to be the policy of the City of Grove that spot zoning shall not be allowed except under extraordinary and clearly defined circumstances. If any two (2) or more of the foregoing factors apply to a proposed amendment, the amendment shall be presumed to be invalid and may not be recommended or adopted unless the adopting ordinance includes recitations or findings:

- A. identifying with specificity the public purpose served;

- B. demonstrating that reasonable inquiry and investigation have been made to determine the public and private detriments that may result by reason of the re-zoning; and
- C. demonstrating that the expected public benefits to be derived as a result of the amendment clearly and convincingly outweigh the anticipated detrimental impacts on public and private interests.

(Added Section 10-2-Spot Zoning per Ordinance No. 578, 4/212009)

SECTION 10-3. VALIDITY

Should any section, subsection, paragraph, clause, or provision of these regulations be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the regulations as a whole or any part thereof, other than the part so declared to be invalid. The City Council of the City of Grove does hereby declare that they would have passed these regulations and each section, subsection, paragraph, sentence, clause, and phrase there of irrespective of the fact that any one or more sections, subsections, paragraphs, sentences, clauses or phrases be declared invalid.

SECTION 10-4 ENACTMENT:

These regulations shall be in full force and effect from after final passage by the City Council of the City of Grove.

SECTION 10-5. REPEAL OF CONFLICTING ORDINANCES:

Any ordinance now in effect that conflicts with any provisions of this ordinance is here by repealed.